

COPY

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES E. BROWN,

Plaintiff

vs.

GERALD BRITTON,
EUGENE BERDANIER, and
DAVID J. KURTZ,
Defendants

: Civil Action No. 1:CV-00-1224
: Honorable Sylvia H. Rambo
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:
:

FILED
SCRANTON

SEP 11 2001

PER. 
DEPUTY CLERK

AFFIDAVIT OF PATRICIA HOAK, R.N.,
IN SUPPORT OF MOTION TO DISMISS THE AMENDED COMPLAINT
OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

COMMONWEALTH OF PENNSYLVANIA:

: ss.

COUNTY OF SCHUYLKILL

:

Patricia Hoak, R.N., being duly sworn according to law, deposes and says that:

1. She is a Registered Nurse and has been employed as a Registered Nurse in a full-time capacity at the Schuylkill County Prison since September 15, 1997 and, as such, is custodian of medical records of residents incarcerated in Schuylkill County Prison.

2. I have reviewed ¶ 9 of the Amended Complaint wherein plaintiff alleges that he attempted to obtain medical attention due to an injury sustained to his knee on March 31, 2000 following an injury sustained during exercise as well as plaintiff's allegation that he was denied treatment until 28 days later allegedly due to the "delinquency of the medical staff within 'SCP' in treating plaintiff's injured knee."

3. A true and correct copy of the medical records of plaintiff, Charles E. Brown, relating to his alleged knee injury of March 31, 2000 through June 12, 2000 are attached hereto and marked Exhibit "A".

4. The medical records reveal the following treatment references to a knee injury during the period from 3/31/00 through 6/3/00:

(a) According to Accident/Incident Report dated 4/1/01, at 1:45 p.m. it was reported that resident Brown hurt his left knee.

(b) On April 1, 2000 at 3:00 p.m., the nurse was notified and advised to apply ice to inmate's affected knee, give Tylenol PRN and advise resident to keep leg elevated.

(c) Plaintiff was seen at the emergency room of the Pottsville Hospital and Warne Clinic on 4/2/00. At that time, the following treatment was prescribed:

Knee immobilizer, rest, elevate, ice, Tylenol as needed, weight bearing as tolerated, crutches.

(d) On 4/10/00, resident had been weight bearing left leg as tolerated, utilizing crutches for ambulation, elevating left leg with ice PRN to knee, wearing knee immobilizer and taking Tylenol as ordered for pain. Plaintiff was seen by Dr. Narang, at which time it was reported that resident became violent and pulled arm away with clenched fist during the exam. According to the progress note Dr. Narang stated "he almost hit me." Resident stood up and walked out of medical examination against Dr. Narang's request to come back.

(e) According to an incident report dated 4/11/00 at 11:30 a.m., plaintiff advised Lieutenant Uholic that I am cured, there is nothing the matter with me, take the crutches back, I am alright.

(f) According to the examination notes of Dr. Narang dated 4/10/00, plaintiff presented with complaints of knee pain on the left side and a history of injury. Dr. Narang reported that patient got violent and almost hit me. Patient cursed and walked out. A report was made and patient was advised to come back.

(g) On 4/11/00 at 11:30 a.m., Catherine Corroto, R.N., recorded that she was advised that plaintiff refused to use his crutches. Nurse Corroto advised resident Brown that he would be medically non-compliant if he refused to use crutches to which he responded "I don't care". Resident Brown was noted ambulatory in the Cell Block bearing weight without his knee immobilizer on.

(h) On 4/17/00, Dr. Narang stated that resident refused examination on 4/10/00 and it was not necessary to see him.

(i) On 4/27/00, Dr. Narang would not see resident. Resident was ambulatory without crutches, a limp was apparent at times and not visible at other times.

(j) During distribution of morning medications, plaintiff was advised by the R.N. that Dr. Narang was willing to see him on April 10, but due to his unwillingness to allow the doctor to examine him and due to his violent action, Dr. Narang was unable to finish his assessment secondary to his violent actions.

(k) On 5/1/00 at 11:30 a.m., Dr. Narang was called with regard to resident Brown.

(l) On 5/1/00 at 1:15 p.m., Dr. Narang recommended consultation with an orthopedic doctor, and to treat as indicated.

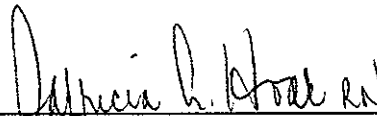
(m) On 5/1/00 at 1:15 p.m., five orthopedic surgeons were contacted including, Robert Boran, Daniel D'Arco, Michael Dawson, Myron Haas, Ranjan Sachdev, and Calvin Stoudt to schedule an

appointment for an orthopedic consult. At that time, each orthopedic surgeon advised that they do not accept Schuylkill County Prison prisoners as outpatient referrals. Warden Britton was made aware and instructed the Registered Nurse to keep trying.

(n) On 5/2/00 at 9:00 a.m., the Registered Nurse spoke with Dr. Dawson's office. She was advised that Dr. Dawson would accept the patient and an appointment was scheduled for May 3, 2000 at 9:00 a.m.

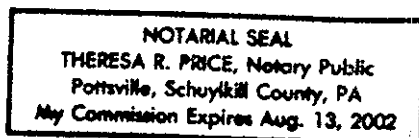
(o) On May 3, 2000, plaintiff was examined by Michael H.O. Dawson, M.D., at 9:00 a.m. Thereafter, an MRI was ordered and taken and physical therapy instituted.

5. The medical records confirm, contrary to the allegations of the Complaint that plaintiff was examined and treated by the emergency department at the Pottsville Hospital and Warne Clinic on April 2, 2000, by Dr. Narang on April 10, 2000 and ultimately referred to an outside, board certified orthopedic surgeon and examined on May 3, 2000. The records further reveal that plaintiff refused treatment upon examination by Dr. Narang on 4/10/00 as stated in the Incident Report of 4/11/00.


Patricia Hoak, R.N.

Sworn and subscribed to before :
me, a Notary Public, this 7TH :
day of September, 2001. :


NOTARY PUBLIC



**SCHUYLKILL COUNTY PRISON
ACCIDENT INCIDENT REPORT**

(Use for fire, theft, damage, injuries, suicide attempts, reportable injuries, etc.)

Date 4-1-00 Person reporting C/O Taylor
 Time 1:45 PM. Shift Supervisor LT. Uholick
 Name of individual report is about CHARLES BROWN (F8)
 Witness _____ Witness _____

INCIDENT: *On the above date and time Res. Brown, C. (F8) hurt his left knee out in F-45.*

Action taken/Disposition *RES. BROWN, C. (F8) WAS GIVEN ICE,
LT UHOLICK WAS NOTIFIED.*

Date 4.3.00 ~~Witness~~ WSP

2/00
 4/1/00 ^{at 2} 3pm - Lt Uholick notified this RN of above incident
 RN advised Lt to apply ice to inmate's affected knee,
 give Tylenol per and advise resident to keep leg up.
 This RN saw resident on 4/2/00

Schuylkill County Prison
 230 Sanderson Street
 Pottsville PA 17901-1758

Accident Incident Report 995

Individual report is about CHARLES BROWN (F8)

**SCHUYLKILL COUNTY PRISON
ACCIDENT/INCIDENT REPORT**

(Use for fire, theft, damage, injuries, suicide attempts, reportable injuries, etc.)

Date 4-1-00 Person reporting _____

Time 4:00 PM Shift Supervisor LT - Uholik

Name of individual report is about CHARLIE BROWN + ZULKOWSKI B.

Witness C/O NEWMAN Witness _____

INCIDENT:

on ABOVE DATE + TIME inmate C BROWN
+ INMATE ZULKOWSKI. COMPLAIN TO ME ABOUT
INJURY THEY HAD PLAYING BASKETBALL IN
YARD C BROWN SMALL SWELLING IN LEG
ZULKOWSKI SMALL BRUISE ON HAND WRIST AREA
(C/O TAYLOR wrote an early report)

Action taken/Disposition

NOTIFIED R.N. CATHY
wrote incident report
MAKE SURE INMATES ARE SEEN NOW NO MORE

Date 4.3.00 Warden Wijf

Schuylkill County Prison
230 Sanderson Street
Portsville PA 17901-1758

Accident Incident Report 9:95

Individual report is about CHARLIE BROWN ZULKOWSKI B.

LT - Uholik

SCHUYLKILL COUNTY PRISON ACCIDENT/INCIDENT REPORT

(Use for fire, theft, damage, injuries, suicide attempts, reportable injuries, etc.)

Date 4/1/00 Person reporting LT EMERICK

Time 8:00 PM Shift Supervisor LT EMERICK

Name of individual report is about BRIAN BLICKLEY, W. ZULKOWSKI, C BROWN

Witness _____ Witness _____

INCIDENT: AS I ATTEMPTED TO DISTRIBUTE MEDICATION AT 2:00 PM BLICKLEY COMPLAINED OF ARM AND CHEST PAIN. ZULKOWSKI COMPLAINED OF A WOUND ON HIS HAND AND SWELLING OF HIS WRIST BROWN COMPLAINED OF A SWOLLEN KNEE.

I ATTEMPTED TO CONTACT THE NURSE SEVERAL TIMES WITH NO RESULTS. I SPoke TO DEPUTY WARDEN BURDANICH AND HE TOLD ME IT WOULD BE WISE TO TAKE BLICKLEY TO THE HOSPITAL. CONNORS AND BLOSCHITZ took him to POTTSVILLE HOSPITAL. BLOSCHITZ WAS MANDATORIED TO STAY AT LEAST UNTIL BLICKLEY WAS FINISHED.

I CONTACTED THE NURSE AT 10:15 I ADVISED HER OF THE PROBLEMS AND STATED SHE WOULD SEE THEM IN THE A.M.

RE CHARLES BROWN TOLD GUARDS AT 10:00 PM HE WOULD NOT LOCK UP UNTIL HE GOT MEDICAL CARE. I SPOKE WITH HIM AND HE WENT TO HIS CELL.

Action taken/Disposition

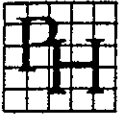
TOOK BLICKLEY TO HOSPITAL
LEFT COPY OF MEMO TO THE NURSE

Date 4.3.00 ~~Warden~~ WSP

Schuykill County Prison
230 Sanderson Street
Pottsville PA 17901-1758

Accident/Incident Report 9/95

Individual report is about _____



The Pottsville Hospital
and Warne Clinic

Name

Charles Brown

DEPARTMENT OF EMERGENCY MEDICINE

E.R. M.D.

D. Harni

MISCELLANEOUS INSTRUCTIONS

Use: Immobility	Reelid family doctor
	1 week.
Rest	
Elevate	
Ice	
Hygiene is needed	
Weight bearing as tolerated	- Cautious

****You have been seen for emergency care only. If any follow up care is needed see your family doctor or the recommended specialist.

Call or return to Emergency Department if you have any questions or further problems. (621-5060)

Limitations:

- | | |
|--|--|
| <input type="checkbox"/> Light work only for _____ | <input type="checkbox"/> No school for _____ |
| <input type="checkbox"/> No work for _____ | <input type="checkbox"/> No gym or active sports for _____ |

Physician _____ Date 7/2/02

I certify that I have received and understand the instructions for my follow-up care listed above.

Patient/Relative Charles Brown Witness S. Harni

☐ Patient/Family verbalized understanding of instructions

**SCHUYLKILL COUNTY PRISON
ACCIDENT/INCIDENT REPORT**

(Use for fire, theft, damage, injuries, suicide attempts, reportable injuries, etc.)

Date 4-11-00 Person reporting _____
 Time 11:30 AM Shift Supervisor LT. Wholick
 Name of individual report is about C-Brown
 Witness _____ Witness _____

INCIDENT:

on Above date + Time I Lt
 Wholick was moving C Brown TO
 Lower Tier due to mid reasons C. Brown
 Stated I AM cured There is nothing the
 matter with me, TAKE THE CROTCHES BACK
 I AM ALL RIGHT, Lt Wholick wrote A med.
 to leave form up in mkt Brown would not
 SIGN IT, He SAID I Go to the hole IF
 I HAVE too. I AM NOT Letting ANYBODY
 OFF The Hook Like That

Action taken/Disposition

wrote incident report
 notified medical + CMO warriner

Date 4.11.00 rep. Warden B. Warriner

Schuykill County Prison
 230 Sanderson Street
 Pottsville PA 17901-1758

Accident Incident Report 9 of 9

Individual report is about C. Brown

MEDICAL

NOTES

NAME

ALLERGIES

Brown, Charles -
NKA

SCHUYLKILL

COUNTY

PRISON

DATE

1/11/00 4pm

Exmate present, $T 102.4^{\circ}$ - Refused BP & lunch today. Go "nausea & dry heaving" - dext. vomiting. Urine discolored. (+) Cough & sputum production. Go intermittent (HA) BP 100/60 AP. μ - rate & rhythm regular. R 20/min. w/ labored at room air. & breath sounds R & L over lung base. Pt states "I'm having a hard time breathing at times." TC: Dr. Y. Wang - Order rec'd to transport resident to ER for eval. Deputy Warden Berdarius made, garage report called to PH-CK - ~~Con No~~

1/13/00 2pm

Released from PH - Afebrile. 105 - B. Lungs clear to auscultation - ~~Con No~~. Lungs remains clear. $T 98.2^{\circ}$ - No s/s resp distress. Offus no 9s ~~Con No~~

1/17/00

2/8

Cjo CJOI sym/p/2/2/1

60P PROGRESS NOTES

Resident/ Patient Name Brown, Charles
(last name first)

Medical
Records No. _____

Progress notes for:

☐ Physician

☒ Nursing

☐ Social Services

☐ Dietary

☐ Activities

☐ PT

☐ OT

☐ ST

☐ RT

Date and Time	PROGRESS NOTES	Signature
4/2/00	Resident injured R knee playing basketball. (+) edema (+) pain with weight bearing. To ER for eval and treatment. Dr. Narang made aware. K. ConHoRN -	
4/10/00	Resident has been bearing weight as tolerated R leg utilizing crutches for ambulation. Elevating R leg above knee wearing knee immobilizer - circulation (+) in leg. (+) peripheral pulses. Taking Tylenol as ordered for pain. Seen by Dr. Narang, resident became violent and pulled arm back with clenched fist during exam. Dr. Narang stated "he almost hit me." Resident stood up and walked out of medical against Dr. Narang's request to come back. CD Schwartz present. DW Burdamer made aware of resident's refusal of exam. K. ConHoRN	
4/11/00 11:30	LT Upshur notified this RN that resident refused to use crutches. See accident / incident report of 4/11/00. This RN advised his brother that he would be medically non-compliant if he refused to use crutches and he stated "I don't care." Res Brown is ambulatory in full block bearing weight R knee immobilizer on. K. ConHoRN -	

PROGRESS NOTES

Facility JCP Medical Records No. _____

Resident/
Patient Name Brown, Charles -
(last name first)

Progress notes for:

☐ Physician ☐ Nursing ☐ Social Services ☐ Dietary ☐ Activities ☐ PT ☐ OT ☐ ST ☐ RT

Date and Time	PROGRESS NOTES	Signature
4/17/2000 1:40pm	Res. signed for sick call - Dr. Narang stated that res. refused examination 4/10/00 and it was not necessary to keep him.	K. Con Horn
4/17/2000 1:55pm	Warden Button made aware of abuse of (C.H.R.)	
4/27/00	Res signed for sick call. Dr. Narang again would not see resident. This RV made Warden Button aware. Res. ambulatory 5 crutches. him apparent at times and not visible at other times. (C.H.R.)	
4/28/00	During am med pass resident asked this RV why he wasn't seen by prison physician. This RV told patient that Dr. Narang was willing to see him on April 10 but due to his unwillingness to allow MD to exam him and due to his violent actions (Dr. Narang unable to finish his assessment). and this all transpired 20 to his violent actions. Deputy Warden Surdani & Cpt. Wapinski made aware.	K. Con Horn
5-1-00 1:30am	Dr. Narang cancelled sick call. This RV left message office manager Cheryl to have MD call back in regards to Res. Brown.	K. Con Horn
5/1/00 1:15pm	5/1/00 Dr. N. Narang / K. Con Horn - Consult Orthopedic Doctor - - treat as indicated -	K. Con Horn

Progress Notes (side 2)

Facility _____

Medical
Records No. _____Resident/
Patient Name _____
(last name first)

Brown, Charles

Date and Time	PROGRESS NOTES
5/1/00 1:15	Dr. Robert Brax, Daniel D'Arcy, Michael Dawson, Myron Hays, Ranyan Sacerdu and Calvin Houdt offices phoned by Mrs RN to have appt. set up for orthopedic consult - each office refused to schedule appts - stating physicians do not accept SCP prisoners as outpatient referrals. Warden Britton made aware & advised Mrs RN "to keep trying" K O R R
5/2/00 9A	Mrs RN received H. from Dr. Michael Dawson's office manager "Kim" who stated Dr. would accept inmate as patient 2 nd to knee injury. Dr. Dawson does not treat fractures but will accept knee & back injuries. Appt scheduled for am 5/3/00 at 9am. DW & Warden made aware. K O R R
5/3/00	Returned from Dr. Dawson's office. His office made 2 nd appt. for MRI 5/16/00 11:50am (but later) it scheduled for 5/22/00. K O R R
5/22/00	Examined by Dr. Lutz M.D. - MRI - no further immediate measures. But must get X-ray. K O R R
June 8, 2000	Resident involved in confrontation with Warden Britton & Warden Britton, advised that X-ray of foot until X-ray is permitted by prison admnistrators. K O R R
6/12/00	K O R R phoned the medical dept. due to cancellation of appt. Advised that dept. was writing for correctional treatment decision as per report for resident would be used again. K O R R
6/12/00	Dr. Dawson's office called by Mrs RN - Further appts. on hold until further notification received from Warden G. Britton & C O R R

PROGRESS NOTES

LIC. NO. _____ D.E.A. NO. _____

MICHAEL H. O. DAWSON, M.D., F.R.C.S., F.A.C.S.

ORTHOPAEDIC SURGERY

739 East Norwegian Street Pottsville, PA 17901

Phone 570-622-7051

Patient's Name Charles Brown Age _____

Address _____

R

Date 05/24/00

Heat, u/s, Rom to
Knee. Three times
a week for three
Weeks.

☐ REFILL

☐ LABEL

SUBSTITUTION PERMISSIBLE _____ M.D.

IN ORDER FOR A BRAND NAME PRODUCT TO BE DISPENSED,
THE PRESCRIBER MUST HANDWRITE "BRAND NECESSARY"
OR "BRAND MEDICALLY NECESSARY" IN THE SPACE BELOW.